

Group II: Claims 16-18, drawn to an electrophotographic apparatus and related process cartridge.

Applicants have elected, with traverse, Group I: Claims 1-8, drawn to a coating material and of making the same coating material for examination.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the examiner if restriction is not required. (M.P.E.P. § 803). The burden of proof is on the examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctness (M.P.E.P. § 803). Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not carried the burden of providing sufficient reasons and/or examples to support any conclusion that the claims of the restricted groups are patentably distinct.

The Examiner states that Groups I and II "... are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a paint or other conventional polymer containing coating and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants."

However, the Examiner has provided insufficient support required under the criteria of § 804.04, and therefore, the Examiner's reasoning is nearly a restatement of the Examiner's conclusion that the groups are patentably distinct. As the Examiner has provided insufficient reasons in his belief, the Examiner has not met the burden placed upon him, and accordingly, the restriction is believed to be improper and should be withdrawn.


Applicants submit this application is now in condition for examination on the merits  
and early notification of such action is earnestly solicited.

Respectfully submitted,

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